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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY DEPARTMENT
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

EXAMINER
ZURITA, JAMES H

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/748,729	WILLIAMS, LAWRENCE E.	
	Examiner	Art Unit	
	James H Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant amendment of 7 September 2004 cancelled claims 1-33 and added claims 34-40.

Claim Objections

Claims 34-40 are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims now refer to two types of telematics devices: (a) telematics device embedded in a customer vehicle (item 500), and (b) telematics device (for example, cellular phone 22, PDA 28, laptop computer 24). It is not clear whether applicant intends to claim patentable distinction between these type of telematics devices. For purposes of this examination the Examiner will interpret these items as synonyms.

Claims 37, 38 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims refer to a broader class of telematics device, while claim 34 refers to a narrower class of telematics device embedded in a customer vehicle.

Claims 34-40 are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims now refer to **emergency contact information**. The term "emergency" is a

relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This issue is of particular importance since applicant appears to claim patentable distinction based upon the type of data that is being transmitted:

Applicant submits that the newly added claims are not anticipated or rendered obvious by [the references] alone or in combination. For example, there are no teachings in these cited references directed to (1) retrieving emergency contact information using a telematics device embedded in the vehicle during an emergency associated with the vehicle and (2) transmitting the emergency contact information of the customer to a Public Service Answering Point using the telematics device embedded in the vehicle.

[the references] no where teaches [sic] that the emergency contact information of the customer is transmitted to the Public Service Answer Point using the telematics device and retrieving the same emergency contact information from a virtual garage by the telematics device.

These cited references disclose a person making a 911 call but does not disclose at all the telematics device embedded in the vehicle retrieving emergency contact information from the virtual garage and thereafter transmitting the same emergency contact information to the Public Service Answering Point. Applicant's new claims are directed to transmitting and receiving emergency contact information and **expressly excludes medical information**. Pages 5-6 of amendment, emphasis added.

Applicant's specifications refer to various types of emergency contact information that are not specifically **medical information**, but are nevertheless emergency contact information. Please note that various types of emergency contact information may overlap. In addition, the Examiner notes that applicant has amended his claims to apply to a vehicle collision (claim 39). However, such emergencies may also include transmission of other information that is medical information. Applicant's appears to concede that there are overlapping ranges of information. For example:

Using the virtual garage 36, telematics service providers 62a...62n, or combinations thereof, the customer can retrieve various data using the telematics device 60. For example, the customer can have access to

- route log (road conditions, road closure, detours, weather forecasts, conditions and warnings),
- insurance log (on-board data for insurance **emergency contact** and history),
- automobile log (on-board data for vehicle **emergency contact** and history),
- traffic log (incident reports, congestion information, average travel time, speed data),
- travel log (point of interest updates, lowest gas prices, parking space availability),
- **medical** log (on-board data for **medical emergency contact** and history),
- grocery log (lowest grocery prices, discounts and specials), and the like.

The virtual garage 36 and the telematics service providers 62a...62n communicate with each other via the communication channel such as the Internet 6 to exchange, retrieve, and/or transmit information.

During an emergency roadside situation associated with the customer's vehicle 500, the customer can access the on-board database through the virtual garage 36 as discussed above. In all likelihood, the customer will use an on-board (vehicle) embedded device or other portable mobile device (e.g., PDA, cellular telephone, laptop computer) to obtain the pertinent information and/or to access the virtual garage 36. The customer can then quickly and efficiently retrieve automobile, insurance, **medical**, weather, traffic, **emergency contact**, etc. information. Grocery information such as locations of lowest prices for particular items, discounts, and the like can be retrieved from the grocery log using the telematics device 60. In addition, when the customer requests an emergency 911 service using the telematics device 60, the customer can transmit the on-board data to a Public Service Answering Point. In this manner, the Public Service Answering Point will have the on-board data for the customer in order to provide the most optimal service.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy III et al. (US Patent 6,535,743)/**Kennedy** in view of Suman et al. US Patent 6,028,537/**Suman** and further in view of "InfoGation Corp. Introduces Productivity, Navigation, Safety and Communication Software Applications for Next-Generation Smart Car Systems," PR Newswire, New York, January 8, 1998, downloaded from the Internet on 10 April 2003/**InfoGation**.

At the onset, the Examiner notes that various claims contain functional limitations, wherein language and nonfunctional descriptive material that carry little or no patentable weight when reading the claim as a whole.

As noted above, the term *emergency contact information* will be given its broadest reasonable interpretation to include any and all information that may be transmitted under an emergency, including, but not limited to, for example, the age, name of a passenger, the location of a vehicle.

Kennedy discloses methods of providing emergency contact information of a customer using a telematics device embedded in a customer vehicle during an emergency associated with the customer vehicle, comprising:

accessing a telematics device embedded in a customer vehicle during an emergency associated with the customer vehicle and **establishing a communication link** between a telematics device and a virtual garage, wherein the virtual garage comprises at least one server on the Internet and wherein the virtual garage stores information, *including non medical information* of a customer. See, for example, Kennedy, at least Col. 9, lines 12-48. See also at least Col. 15, lines 7-11, requesting information of a customer from a virtual garage using a telematics device. See, for example, Kennedy, at least Col. 5, lines 7-18, Col. 11, line 21-Col. 12, line 26.

receiving customer information from a virtual garage to the telematics device of a customer vehicle. Kenney discloses downloading information from a service center to a vehicle's telematics device, See, for example, at least Col. 9, line 49-Col. 10, line 11.

transmitting data to/from a vehicle's telematics device and service providers. See, for example, Kennedy, Col. 13, lines 1-19. Kennedy discusses the use of 911 numbers. For example, Col. 5, lines 48-58. As noted previously, **911** is an emergency reporting system whereby a caller can dial a common number for all emergency services. The caller will be answered at a common answering location (public service answering point - PSAP)¹ which figures the nature of the emergency and dispatch the proper response teams.

*Kennedy does not specifically exclude **medical information or any other type of data**.* However, these differences do not alter the functions of accessing, establishing a communications link requesting, receiving, transmitting data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2nd 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

As per claim 35, Kennedy discloses use of the Internet. See, for example, Col. 7, line 47-Col. 8, line 3.

As per claim 36 Kennedy discloses that communication link may be though wireless connections. See, for example, at least Col. 7, line 66-Col. 8, line 3. See also at least Col. 8, line 55-Col. 9, line 5.

As per claim 37, Kennedy **does not** mention using an FM subcarrier network. As noted previously, without applicant traverse, information may be transmitted from TSP's to telematics devices via FM subcarrier networks. For

¹ PSAP is a generic term for the person or group of people who answer 911 emergency phone

example, **InfoGation** discloses that CUE's FM subcarrier network reaches over 80% of the North American population and interstate highway system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kennedy with **InfoGation** and disclose transmitting information from a portal to a customer device over an FM subcarrier network. One of ordinary skill in the art at the time the invention was made would have been *motivated* to combine Kennedy with **InfoGation** and disclose transmitting information from a portal to a customer device over an FM subcarrier network for the obvious reason that FM subcarrier networks provide a simple, efficient and proven way to reach a large number of customer devices.

As per claim 38, Kennedy discloses requesting an emergency 911 service to the Public Service Answering Point using the telematics device. See, for example, Col.5, line 47-59.

As per claim 39, Kennedy discloses that the emergency may comprise a collision. See references to car crash, at least Col. 11, lines 4-21.

As per claim 40, Kennedy **does not** specifically disclose that a Public Service Answering Point may comprises an emergency medical service vehicle. Suman discloses transmitting medical information, stored in an on-board database, from a vehicle's telematics device to an emergency vehicle. See, for example, at least Col. 13, lines 15-54. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kennedy and Suman to disclose transmitting medical information from an onboard

database to a PSAP/emergency medical service vehicle. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Kennedy and Suman to disclose transmitting medical information from an onboard database to a PSAP/emergency medical service vehicle for the obvious reason that it is important that emergency medical personnel have the latest medical information of a patient during a roadside emergency. A patient's virtual garage may exclude recent updates to a person's medical records, such as a recently diagnosed diabetic condition. Medical personnel may alter their treatment according to such updates.

Response to Arguments

Applicant's arguments filed 7 September 2004 have been fully considered but they are not persuasive.

Applicant argues that his new claims are

directed to transmitting and retrieving emergency contact information and expressly excluded medical information (see p. 6 of amendment).

While the term "emergency contact information" is mentioned in various places, applicants do not define what information is included and excluded. The term will be given its broadest reasonable interpretation to include all information that may be transmitted under an emergency. See discussion above concerning ***emergency contact information***.

Again, it has been found "That a person skilled in the art might realize from reading the disclosure that such a particular definition (as now argued) is a possible definition is not a sufficient indication to that person that that particular

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definition is part of Applicant's invention as originally filed. Claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application." In re Prater, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969). In the instant case, Applicant has not persuasively demonstrated that the Examiner has applied an unreasonable interpretation of the recited feature, that the interpretation is inconsistent with the specification, or that applied interpretation is repugnant to one of ordinary skill in the art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JK
James Zurita
Patent Examiner
Art Unit 3625
20 November 2004


WYNN C. COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600